

Minutes of the Planning Commission meeting held on Thursday, April 2, 2009, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jeff Evans, Chair
 Jim Harland, Vice-Chair
 Ray Black
 Karen Daniels
 Kurtis Aoki
 Tim Taylor
 Sheri Van Bibber
 Ray Christensen, Community Development Planner
 Chad Wilkinson, Community Development Planner
 G.L. Critchfield, Deputy City Attorney
 Citizens

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Jeff Evans opened the meeting and welcomed those present. He recognized a group of students from Murray High School in attendance for their U.S. Government class.

APPROVAL OF MINUTES

Tim Taylor made a motion to approve the minutes from March 19, 2009. Seconded by Sheri Van Bibber.

A voice vote was made. The minutes were approved unanimously, 7-0.

CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

APPROVAL OF FINDINGS OF FACT

Karen Daniels made a motion to approve the Findings of Fact for a Conditional Use Permit for an auto dealership located at 174 West 4800 South, #4. Seconded by Kurtis Aoki.

A voice vote was made. The Findings of Fact were approved unanimously, 7-0.

CASH STORE – 5614 South 900 East, Project #09-14

Kevin Mortensen was the applicant to present to represent this request. Chad Wilkinson reviewed the location and request for a Conditional Use Permit to relocate an existing check cashing business. The proposed new location would be on the corner of 5600 South 900 East. This property is in the C-D-C zone, which allows this type of business subject to a Conditional Use Permit. There is an existing building at this location that the Planning Commission approved previously. The Cash Store proposes using a portion of the building that is currently vacant. Check cashing businesses are limited in the City of Murray based on their distance from each other and also by the population. This

particular business existed within the same development prior to the adoption of the ordinance. Staff has specified that the other business location just across the parking lot needs to be completely discontinued before operation begins at the new location. Staff is recommending approval.

Kevin Mortensen, 380 North 200 West, Suite 101, Bountiful, is with Intermountain Development Group. He and his partner, Floyd Hatch, were the original developers on this project and have remained involved for the past few years. He acknowledged that he has been advised of the staff's conditions and that the conditions will be met.

There were no public comments on this item.

Ray Black made a motion to approve the Conditional Use Permit to relocate the check cashing business for the property located at 5614 South 900 East, subject to conditions:

1. The project shall meet all applicable building code standards.
2. Provide stamped and sealed plans by appropriate design professionals to meet current code requirements for review.
3. The project shall meet all current fire codes.
4. Operations at the existing location shall be discontinued prior to operation at the proposed location.

Seconded by Jim Harland.

Call vote recorded by Ray Christensen.

A Mr. Aoki
A Mr. Black
A Mr. Taylor
A Mr. Evans
A Mr. Harland
A Ms. Van Bibber
A Ms. Daniels

Motion passed, 7-0.

SPARTAN SUBDIVISION – 700 – 750 W. Tripp Lane, Project #09-13

There was no applicant present to represent this request. Chad Wilkinson reviewed the location and request for a preliminary and final approval for a four lot subdivision. This property was recently approved by the City Council for a zone change from agricultural to R-1-8. The previous subdivision plan had three irregularly shaped lots that the School District determined would not be usable for their building program. The proposed subdivision plat is more conventional and contains mostly square lots. Most of the subdivision is vacant, however there is an existing home that staff is requiring to be

removed before building permits are obtained. Staff is recommending approval, and noted that the Planning Commission is acting as a recommendation body in this case.

Tim Taylor asked if the access would be off of 700 West, as it is right now, or if it would be changed to Tripp Lane. Chad Wilkinson responded that the access hasn't been decided yet, but it is staffs preference to have the access off Tripp Lane and they have recommended taking out the 700 West access.

Ms. Daniels asked about taking down the existing home. It is noted in the conditions that the home will need to be removed unless approved by the Murray Building Official. She questioned if that statement meant the home actually doesn't have to be removed prior to obtaining building permits. Ray Christensen responded that he has discussed this issue with the City Engineer. The initial recommendation was to take down the home prior to any building permits being issued, however after additional discussion it was determined that it may be possible to start foundation work before the home is removed. A demolition permit must be obtained to remove the home, which can take some time.

Mr. Aoki noted that there was a comment in the application that Mary Ann Kirk from the Historic Preservation Board will make a decision about the demolition. Chad Wilkinson responded that the home is on the registry, however there is not a discretionary decision to be made. There is a process that the School District will have to go through with the Historic Preservation Board.

There were no public comments related to this item.

Jim Harland made a motion to send a positive recommendation to the Murray City Mayor for preliminary and final approval subdivision approval of the Spartan Subdivision located at 700 – 750 West Tripp Lane, subject to conditions:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Records Office and street frontage improvements. The Murray City Engineer noted the applicant will need to bond for sidewalk and utility connections for the lots' water and sewer laterals.
2. Meet all Murray Fire, Water, Sewer and Power Department requirements.
3. Meet the requirements of the Murray Building Official to meet all applicable building code standards. The existing home and accessory buildings will need to be removed prior to application for building permits on the subdivision lots unless approved by the Murray Building Official.
4. The project shall meet all current fire codes.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A Mr. Aoki

A Mr. Black
A Mr. Taylor
A Mr. Evans
A Mr. Harland
A Ms. Van Bibber
A Ms. Daniels

Motion passed, 7-0.

WILLIAM GREEN – 223 W. Winchester Street, Project #09-16

William Green was the applicant present to represent this request. Jeff Evans specified that this issue is before the Commission for a zone change only, that there will not be any decision on a type of business or development at this time. Ray Christensen reviewed the location and request for a zone change from R-1-8 to R-N-B. The property is located at the corner of Travis James Place and Winchester Street. This area is in the general plan as Residential Business. There are other R-N-B properties in the vicinity. The existing dwelling on the property will remain. The location for the business use will be at the corner of the property, where Mr. Green would like to put a kiosk to sell products such as coffee and snow cones. There is heavy pedestrian activity on this corner as the TRAX station is located across the street. If the zone change is approved, Mr. Green will be required to submit an application for site plan approval. Staff is requesting the Planning Commission make a recommendation to the City Council for the zone change to R-N-B.

Kurtis Aoki asked what type of traffic concerns there would be if Mr. Green did open a stand at this location. Mr. Christensen responded that there has been discussion about requirements for off street parking. Mr. Aoki stated that although the current issue is only regarding the zone change, the applicant needs to be aware that there may be some other considerations in the future.

William Green, 223 West Winchester Street, confirmed that he has received a copy of the staff report and requirements. He stated that the off street parking concerns have been addressed. The M-G-C area across the street from his home is the Murray TRAX station. He intends to cater primarily to patrons of TRAX by offering hot and cold beverages while they're waiting for trains and buses.

There were no public comments on this item. Jeff Evans noted that a letter was submitted to staff from Ed and Sherry Partridge stating concerns about increased traffic and parking on Travis James Lane, and the potential increase of litter due to the suggested type of business.

Karen Daniels made a motion to send a positive recommendation of approval to the City Council for the requested zone change from R-1-8 (single family residential) to R-N-B (residential neighborhood business) for the property located at 223 West Winchester Street. Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A Mr. Aoki
A Mr. Black
A Mr. Taylor
A Mr. Evans
A Mr. Harland
A Ms. Van Bibber
A Ms. Daniels

Motion passed, 7-0.

MIXED USE DISTRICT, Project #09-17

Jeff Evans stated that the boundaries of this district are from I-15 to Box Elder Street and 4700 South to 5200 South. This area includes a General Plan change from Commercial Retail and Industrial to Mixed Use, and a zone change from M-G-C and C-D-C to M-U.

Ray Christensen presented the staff report related to this General Plan amendment and zone change. This mixed use area has been discussed previously with the Planning Commission and notices have been sent to various property owners. The General Plan was adopted in June of 2003 and called for zoning and land use changes to mixed use. Most of the proposed area for rezoning to mixed use is in the General Plan area designated for mixed use. The direction of the General Plan is to maximize the use of limited land resources, with new and concentrated commercial and mixed uses proposed within the commercial core between State Street and Interstate 15. The proposed mixed use areas that have been identified are within ¼ to ½ mile of the TRAX station. The proposed Frontrunner station is also located within this area. The purpose of a Mixed Use District is to encourage pedestrian oriented design and compact mixed use development, which includes various commercial uses as well as offices and manufacturing businesses. This would revitalize the areas near the transit stations.

There have been questions raised about how this change would affect existing businesses and uses. Mr. Christensen stated that there would be no change to the existing businesses, but some businesses would become legal non-conforming as it relates to the current mixed use ordinance. Expansions on non-conforming uses may be allowed subject to Board of Adjustment approval. Remodeling projects and new buildings would be impacted. There have been meetings and phone calls from business owners and property owners regarding this change. Another open house for property owners has been suggested in order to discuss the changes, as well as to draft the ordinance so that the changes can be reviewed. Staff welcomes the comments from the public and Planning Commission, and recommends continuing this item to a future meeting.

Jeff Evans explained that the role of the Planning Commission is to send a recommendation to the City Council. The City Council makes the final decision. He asked the Commission members for their input on a continuance or sending a recommendation to the City Council at this meeting. Karen Daniels recommended a continuance in order to get the ordinance questions answered. Sheri Van Bibber agreed with Ms. Daniels's suggestion.

The Commission members agreed that they wanted to hear from the public regarding this item. Jim Harland stated that some of the public's specific questions about the ordinance may be better answered by the planning staff, and recommended that if this is the situation it would be beneficial to meet directly with the staff. Kurtis Aoki asked if the Commission members would be able to ask the public specific questions regarding their concerns. Jeff Evans confirmed that they would, and specified the time limits for public comments. He invited the individuals that submitted applications to speak first.

Ray Beck, 257 East 200 South, Suite 700, Salt Lake City, was present to represent the Gordon family members. Mr. Beck stated that many years ago he was a member of the Murray City Planning Commission. His clients own property in Murray City, including over 50 industrial rental units. The units are located primarily along 150 West near the railroad tracks and heading north from 4800 South. This is a heavy industrial area, and there is a solid tenant presence. Many of the tenants are small businesses, which can result in a rapid turnover as sometimes the business may grow and expand to a different location, or may close down if the business doesn't do well. Mr. Beck calculates that 80% of the current tenants in the area would be non-conforming uses upon the adoption of the zone change. He stated that he understands the "grandfather" clause, but it doesn't help in this situation. If a current tenant that is a non-conforming use moves out, then a new tenant would require the exact same type of non-conforming use or they'd have to become a conforming use. Over time and through normal business cycles, his clients would lose approximately 75% of their potential tenant base. Mr. Beck stated that non-conforming use will ultimately strangle the potential client base during a transition period. His clients have proven that people need these types of places to conduct business in this area. This ordinance will have an immediate and direct impact upon the economic benefit of the property and his clients. If the mixed use concept works, there will be compact residential and commercial use, but that won't happen on a piecemeal basis. Small shops are not going to just start appearing. Large developers would come in and buy large pieces of property. They would put in a development with a few hundred condominiums and some commercial shops, similar to Gateway. Mr. Beck stated that this is the intent but nobody knows when it is going to happen. He questions why current property owners should be pushed out with these new regulations for a future use that may or may not materialize. He proposed that part of the ordinance should include an expansion of the non-conforming use (grandfathering) provision. He recommended that the non-conforming use not be applied on a unit by unit basis, but rather by an entire industrial park or common ownership area. This will help by not limiting the tenant base. He asked that the ordinance be amended to anticipate these factors, and so that there is not economical repercussions to the current tenants and owners.

Tim Taylor commented that the concern doesn't seem to be about the General Plan for future land uses, but rather with the current text of the ordinance. Mr. Beck stated that there are some other concerns beyond the ordinance, but there wouldn't be time to go through those at this meeting. He understands that something is going to happen in this area, and that progress is appropriate. It is the implementation of the progress that is of concern.

Kurtis Aoki stated that he appreciates Mr. Beck's comments, and pointed out that there are always going to be some unintended consequences.

Reed Stallings, owner of the buildings at 4731 & 4733 South Commerce Drive, stated that he plans to build two more buildings at this location to complete the complex. Mr. Stallings attended the open house in January regarding the purpose of the mixed use zone, he initially thought it would be a good change. After further investigation, he became alarmed that it would push out the businesses. There are over 158 permitted uses now that would be discontinued with the new zoning. There would be over 70 Conditional Use Permits that would be taken away from all of the property owners in the area, which would drastically affect their businesses. Business owners don't want to have the role of non-conforming businesses, they want nice areas and communities. If they are forced into non-conforming status it would push business owners into a negative situation for expansion or change of use. Mr. Stallings stated that it would be premature to pass this zone change at this time. The ordinance is very vague in many areas. There are three different building sizes listed, and some areas don't have any business sizes listed. He would request that the ordinance be drastically altered so that it didn't have an effect on those that have been in the area for many years and those that have recently moved into the area. He stated that the first time he heard about the master plan and the zoning changes was on January 28th.

Jeff Evans told Mr. Stallings that a copy of his letter has been submitted for the record. He invited other citizens in attendance to make public comments.

Tom Henry, 5000 South Glen Street, thanked the Commission for listening to the citizens. He has an auto repair business in the area that is being discussed. He asked what types of businesses will become non-conforming, and how many in this particular area will be legal but non-conforming. He also asked if the zoning would change when renters move, or when land is purchased. Jeff Evans responded that the list of non-conforming is quite extensive and suggested that Mr. Henry discuss these with staff.

Tim Taylor asked Chad Wilkinson if he would explain the difference between the General Plan amendment and approving an ordinance change. Mr. Wilkinson stated that tonight's meeting is regarding a General Plan amendment for a few of the properties that are not in the General Plan for mixed use. The General Plan guides the land use within the City, and there is a future land use map that shows the vision of the Murray City Council. In 2003 the City Council decided that the area being discussed was appropriate for mixed use. Tonight the real issue for the property owners seems to be the zone change, although the properties are already shown on the general plan to be future mixed use. The zone change would either be from M-G-C or C-D-C to Mixed Use. Mr. Wilkinson explained that the ordinance is the actual law, the text that would regulate what could and couldn't happen within the boundaries. That change relates more to the specific uses that are allowed and the design standards that apply. The current consideration is to adopt a map that would allow the City to adopt the laws that apply to the properties contained in that map.

Mr. Taylor asked what would happen if the Planning Commission sent a positive recommendation to the City Council. He asked if that would legally tie everyone within that area to a new set of zoning ordinance standards. Mr. Wilkinson responded that the City Council adopted a mixed use ordinance last year, in January of 2008. If the Planning Commission recommended approval to the City Council, it is still up to the City

Council to adopt the recommendation, to modify it, or to reject it. The City Council's decision would not affect the law. What is really the consideration is whether or not the boundary is adopted and the affected properties are then considered mixed use.

Tim Taylor stated that most of the comments he's hearing are related to people not liking the current ordinance, which has already been adopted. Prior to adopting a general plan amendment and a zone change, people would like the ordinance changed so that as implementation takes place, it will be done more smoothly. Chad Wilkinson agreed that Mr. Taylor's statement seemed to be correct. Mr. Taylor stated that tonight's discussion is not about the ordinance change. Mr. Wilkinson agreed, stating that the ordinance is already in place and that the only issue for consideration at this meeting is the adoption of the proposed boundary.

Kurtis Aoki stated that he understands there are property owners that deal with different types of businesses. However, there are some property owners that have a specific business, and when that business becomes non-conforming it doesn't mean that the City takes over their property. He wants to ensure that these business owners understand how these changes apply to their particular business. Mr. Wilkinson responded that there are already properties within this boundary area that are non-conforming, such as homes that have been existing for a number of years. Nothing happens to these individuals, they continue to live in their homes as they always have. There are only a few things that would prompt a change in this type of situation, such as if the property owner decided to remove a business or a home, or expand a building. Another situation would be if the business abandoned a particular use for over a year. However, if someone leaves and a similar business comes into the same property within a year, the non-conforming status still applies. Non-conforming means that a business doesn't meet the current zoning but can still operate.

David Reeve, 720 East Three Fountains Drive, is a Murray resident and also an attorney. He is representing another Murray resident that owns property in the affected area, Scott and Michele Vanleeuwen. James Dunn, his co-council, has sent a letter to the Commission. Mr. Reeve confirmed that the letter has been reviewed by the Commission. He stated that Mr. Vanleeuwen has an office building along the freeway boundary at the far northwest corner of the boundary. He has owned that property for many years, and has been purchasing property around it in order to develop a warehouse office complex. Under the proposed changes, his land use would completely change. Mr. Vanleeuwen's situation is unique in that he has some property just outside the boundary that is being considered, so half of his property wouldn't be affected by the zone change and half of it would. He has acquired over four acres of land, which would quickly lose value. His building plans would be stopped. Additionally, Mr. Reeve stated that the ordinance currently in place needs to be modified. To change the zoning before the ordinance has been modified is untimely and not warranted.

Blaine Walker, 24 Altawood Lane, Sandy, stated that he owns a piece of property on 5th Avenue, behind the reception center. His building has a domed top that recently had a new roof put on, and he's currently in the process of painting it. The Yellow Pages was his tenant for a number of years. He is concerned about a grandfather clause related to existing uses. There is a loading dock on the property, and there's room for storage of different vehicles. There is also a building that allows for additional storage. He wanted

to make sure that he'd be able to continue leasing the building. He has spent approximately \$40,000 for improvements and upgrades. If there is going to be a change related to uses, he wanted his costs considered. He cannot afford to tear down the building and start all over. Jeff Evans responded that if the current business that is there now is conforming, then it will be grandfathered in. If that business leaves, and a similar business comes in within one year, then it would be grandfathered in as well. Mr. Walker stated that he likes the concept of mixed use and thinks that the overall plan would be beneficial to the area. He doesn't want to be put into a position that forces him to make a change and incur additional expense.

Ralph Woodward, 4345 Conrad Street, Salt Lake City, is the owner of RA Woodward Company, Inc. He built three buildings on 300 West, 4701 to 4711, and sold adjacent properties. There have been great sums of money invested in this area, and it is unfair for this change to be made because it will make property owners lose too much of what they've worked for over many years. He has sold property to various businesses such as motorcycle shops, auto repair, and a construction company. He would prefer that a zone change not apply to his property.

Tim Harper, 4780 South Commerce Drive, owns the property at this location. When he first heard of mixed use he liked the idea, until he researched it in more detail. He thinks that everyone should be able to do what they can with their property, to be able to make a living. By rezoning this area, it is shackling those that have been in the area for a long time, making it so they cannot continue what they envisioned for their property. He stated that others have been able to stay and build and be non-conforming, but now he won't be able to build what he wants to in the future. He is against the zoning, and wants people to be able to get permits to build non-conforming buildings instead of shackling everyone within the zone. He'd like things to continue as they are now.

Reed Stallings received permission to speak again. He stated that one of the buildings close to his just changed uses. When the business owner went in to obtain a business license, he was advised that the building would require about \$50,000 worth of improvements in order to conform and receive his business license. The idea that it is easy for another business to come in and obtain a new business license and maintain the grandfathered status isn't what's actually happening. It is frightening for property owners as tenants and building owners change that the grandfather clause won't be maintained. Kurtis Aoki stated that even without a zone change, if a new tenant came in with the same business and applied for a business license, they would still have to update to the current standards. Mr. Stallings responded that the zoning differences are drastic regarding building sizes, yards, parking and other items that would be very difficult to update. It would potentially put many places out of business. For those that can stay within the non-conforming use, this change will force them to not make any changes or improvements to their property.

Ray Beck made an additional comment. If one is a long term user of a property, and continues to use the property, then the grandfathering provisions will protect them. It is upon the rotation of property, such as in landlord situations, when the affects are felt. It would not be prudent to make a recommendation to the Council that the zone change should take place now, prior to changing the ordinance.

There were no additional comments from the public.

Ray Christensen advised Mr. Evans that a continuance date has not yet been established. There will be another open house and some additional meetings. Mr. Evans suggested that there should be something in a motion that states the Commission will look at this issue again once staff feels comfortable in addressing it again.

Kurtis Aoki asked if all of the property owners would be notified again. Ray Christensen responded that they would.

Tim Taylor stated that the issue doesn't seem to be with the text of the ordinance in all areas, but rather the issue of implementing it in this specific area. He questioned if there were going to be similar complaints about this ordinance in other areas when it is implemented, such as issues with non-conforming. Mr. Christensen responded that there will be issues with non-conforming, although it's impossible to obtain 100% compliance that will allow every type of industrial use. Staff is going to work with property owners to review the different types of businesses, building sizes, and types of use in order to reduce the number of non-conforming. With a transition from manufacturing and industrial to mixed use, there will be some businesses that will be non-conforming.

Christopher Chestnut with UTA asked about the TRAX station that is planned to the north of the existing one. Tim Taylor responded that it is a concept that staff has discussed with UTA. Chad Wilkinson stated that Tim Tingey, Director of Community and Economic Development, has had discussions with UTA, and pointed out that this is only conceptual at this point, that there will be many more discussions regarding this issue.

Tom Henry spoke again, asking if it is possible to view the zoning differences online. Ray Christensen responded that maps and other information can be accessed from Murray City's website. Chad Wilkinson provided the web address, www.Murray.Utah.gov, and stated that the information can be found under the City Code link, Title 17, under the sections for the M-G-C and M-U zones.

Jeff Evans closed the public comment portion on this item. He asked the Commission to discuss what action they wanted to take at this time, that there had been some discussion about continuing this item. Tim Taylor stated that it is important to not set a boundary until staff has had more time to work with the implementation of the ordinance. Sheri Van Bibber stated that the public's input has been helpful and is appreciated. Ray Black stated that due to all of the questions regarding the various zones, it would be helpful to have more time to review this issue.

Jeff Evans thanked everyone present for their time in attending the meeting and making comments. He invited everyone to attend the next open house to further voice their opinions.

Ms. Van Bibber made a motion to continue this item to a future date, which has not yet been set. Seconded by Ms. Daniels.

Call vote recorded by Ray Christensen.

Planning Commission Meeting

April 2, 2009

Page 11

A Mr. Aoki
A Mr. Black
A Mr. Taylor
A Mr. Evans
A Mr. Harland
A Ms. Van Bibber
A Ms. Daniels

Motion passed, 7-0.

Sheri Van Bibber asked Ray Christensen if the future open house date will be posted in The Journal once it has been scheduled. He responded that staff will follow up on having it posted.

Meeting adjourned.

Ray Christensen, AICP
Senior Planner